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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/582,656 | 04/03/2007 | Raymond John Bacon | 508-051.008 | 1498 |

4955 7590 01/28/2010
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| EXAMINER |
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KUMAR, RAKESH

| ART UNIT | PAPER NUMBER |
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3651

| MAIL DATE | DELIVERY MODE |
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01/28/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/582,656 | Applicant(s) BACON, RAYMOND JOHN | |
| | Examiner RAKESH KUMAR | Art Unit 3651 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 October 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
4a) Of the above claim(s) 5,6,12-14,17,18,21 and 22 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,7-11,15,16,19,20 and 23-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 June 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>09/22/2006 and 10/05/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-4,7-11,15,16,19,20 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dessertine (US 5,020,527) in view of Hoerlins (WO 01/37909A1).

Referring to claims 1,10,15,19,20 and 23-25. Dessertine discloses a dispenser (Figure 1) for dispensing a substance (15) in individual portions counted by a multi-use counter (Figure 4) having a display incremented or decremented with the count of portions (see Figure 4) dispensed and a dispense action detector (23) for detection of portion dispensing, the dispenser comprising :

- a body (1) having a dispensing orifice (13 through opening at 5);
- a container (15) for the substance, the container (15) being integral with or accommodated on the body (1);
- a mechanism (47) in the body (1) and/or the container for dispensing individual portions of the substance to the orifice (13), the mechanism having:
 - a displaceable element (47) for initiating the dispensing action;

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- an accommodation on the body (1) for the counter (51) with its detector arranged for detection of dispensing actions of the mechanism (Figure 1).

Dessertine does not disclose a closure adapted to enclosing the counter.

Hoerlins discloses a dispenser wherein the closure (7) is adapted to co-operate with a portion of the body providing the accommodation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Dessertine to have included a closure adapted to co-operate with a portion of the body as taught by Hoerlins and further enclosing the counter on the body because would provide a cleaner ejection opening and a protected counter.

Referring to claim 2. Hoerlins discloses dispenser wherein the closure is tamper-evident.

Referring to claim 3,4. Hoerlins discloses dispenser wherein the closure is adapted to be irremovably connected to the body and provided with a frangible portion through which the counter can be removed (see Figure 4).

Referring to claim 7. Hoerlins discloses dispenser wherein the closure is a cap (7) over the end of the receptacle to captivate the counter (8).

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Referring to claim 8,9,11. Hoerlins discloses dispenser wherein the closure (7) has a window for viewing (19) the display of the counter (8).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAKESH KUMAR whose telephone number is (571) 272-8314. The examiner can normally be reached on M-F 8 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651

/RAKESH KUMAR/
Examiner, Art Unit 3651